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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/585,175	07/06/2007	Simon Blumel	5367-249PUS	2133

27799 7590 12/09/2009  
COHEN, PONTANI, LIEBERMAN & PAVANE LLP  
551 FIFTH AVENUE  
SUITE 1210  
NEW YORK, NY 10176

EXAMINER
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SENE, PAPE A

ART UNIT	PAPER NUMBER
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2812

MAIL DATE	DELIVERY MODE
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12/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/585,175

Applicant(s)

BLUMEL, SIMON

Examiner

PAPE SENE

Art Unit

2812

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 04 November 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-17.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Charles D. Garber/  
Supervisory Patent Examiner, Art Unit 2812

/PAPE SENE/  
Examiner, Art Unit 2812

NOTE: Request for withdrawal of finality is declined by examiner because on the communications provided by applicants on 11/03/2008, applicants did amend the claims to change the scope of invention. Applicants are explaining the purpose of squeezing the connecting layer, stating that those features help prevent formation of air gaps. But applicants did not claim such a limitation. Applicants did claim the limitation "the connecting layer, when squeezed, is configured to generate an opposing force that strives to press the optical device and the radiation coupling area apart". Examiner points out that after the connecting layer is formed, if it is squeezed from the semiconductor component, the optical device or both, an opposing force will generate striving to press the optical device and the radiation coupling area. This is a law of nature, very common in Physics. Applicants did not claim a step of squeezing, they claimed what would occur when a squeezing step was done. In addition, Fusaroli is brought in to teach the limitation of squeezing the connecting layer formed between a semiconductor component and an optical device. Applicants did not claim that the connecting layer was formed before fixing the semiconductor component and the optical device relative to one another. Applicants only claimed that they are fixed relative to one another and pressed on one another to squeeze the connecting layer; and that limitation is taught by Fusaroli. Squeezing the connecting layer does help in fixing the thickness of the connecting layer, but also can be done to prevent the connecting layer from expanding and causing separation. Applicants argue that Spaeth does not disclose that connecting layer 9 is located between the optical device 8 and the radiation coupling area of the semiconductor component (6). Examiner disagrees, pointing out that the term "in between" is broad enough to encompass the way connecting layer 9 is positioned on fig. 2 to read on the claims. A cross sectional side view at the middle of the semiconductor component 6 of fig. 2 illustrates it better. To overcome spaeth, applicants need a less broad term than "in between". Optical device 8 is squeezed on base plate 1, therefore 8 is squeezed on both the semiconductor component and the connecting layer. X squeezing Y, does not necessarily mean that X is in contact with Y. Even if combining Bauer with Spaeth will not make the device more compact, it will prevent the optical device from detaching from the device it is forming.